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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/926,841	12/31/2001	Toshihiko Yamashita	YAMA3020/FJD	8728

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EXAMINER

BOYD, JENNIFER A

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 09/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/926,841

Applicant(s)

YAMASHITA ET AL.

Examiner

Jennifer A. Boyd

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5,6 and 9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-6,9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/7/06 has been entered. The Applicant's Amendments and Accompanying Remarks, filed 9/7/06, have been entered and have been carefully considered. Claim 9 is added and claims 5 – 6 and 9 are pending. In view of Applicant's argument that Borgford and Scurlock do not teach Applicant's configuration, the Examiner withdraws all previously set forth rejections. Despite these advances, the invention as currently claimed is not found to be patentable for reasons herein below.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

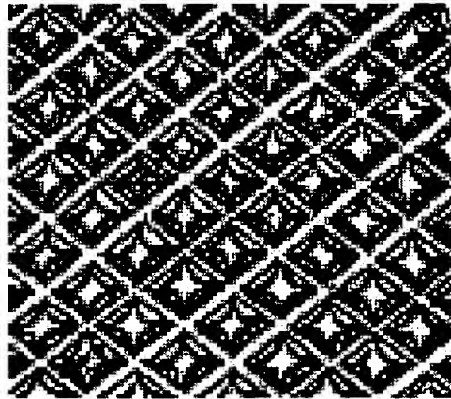
Claim Rejections - 35 USC § 103

3. Claims 5 – 6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pierce (US 117,924).

Pierce is directed to an improvement in a vegetable grater (Title). Pierce teaches a grating

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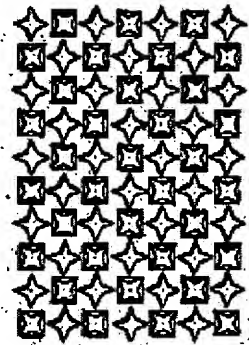
plate comprising a flat metal sheet having a numerous series of quadrangular holes in diagonal lines crossing each other (column 1). Please see figure below for specifics regarding the hole configuration adapted from Figure 1.



Pierce discloses the claimed invention except for thickness is between 10 – 50 micrometers, longitudinal length of the openings is 365 – 510 microns, the lateral length of the openings being 360 – 510 micrometers and the opening ratio is between 45 – 60%. Absent a showing of unexpected results, it would have been obvious to one having ordinary skill in the art at the time the invention was made to create a substrate with a thickness of 10 – 50 micrometers, an opening length of 360 to 510 micrometers and an opening ratio between 45 – 60% since it has been held that where general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 220 F.2d 454 USPQ 233 (CCPA 1955). In the present invention, one would have been motivated to optimize the thickness, opening length and opening ratio in order to create a grater with an optimal level of porosity and rigidity.

4. Claims 5 – 6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Woodward (US 165,143).

Woodward is directed to a culinary grater (Title) comprising a sheet of metal having perforations on both sides, the holes on each side alternating with depressed perforations that form the grating surface on the opposite side (column 1). Please see figure below for specifics regarding the hole configuration adapted from Figure 1.



Woodward discloses the claimed invention except for thickness is between 10 – 50 micrometers, longitudinal length of the openings is 365 – 510 microns, the lateral length of the openings being 360 – 510 micrometers and the opening ratio is between 45 – 60%. Absent a showing of unexpected results, it would have been obvious to one having ordinary skill in the art at the time the invention was made to create a substrate with a thickness of 10 – 50 micrometers, an opening length of 360 to 510 micrometers and an opening ratio between 45 – 60% since it has been held that where general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 220 F.2d 454 USPQ 233 (CCPA 1955). In the present invention, one would have been motivated to optimize

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the thickness, opening length and opening ratio in order to create a grater with an optimal level of porosity and rigidity.


Response to Arguments

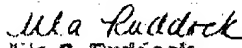
5. Applicant's arguments with respect to claims 5 – 6 and 9 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer A. Boyd whose telephone number is 571-272-1473. The examiner can normally be reached on Monday thru Friday (8:30am - 6:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Jennifer Boyd
September 20, 2006


Ula G. Rudbeck
Primary Examiner
Tech Center 1700